



### OPTIONS TO MODIFY SURFACE WATER QUALITY STANDARDS

Water Quality Rules and Regulations, Chapter 1, Wyoming Surface Water Quality Standards, identify designated uses, water quality criteria, and antidegradation provisions to maintain water uses and water quality. The standards are intended to be consistent with the Wyoming Environmental Quality Act and the federal Clean Water Act. This document is intended to provide guidance on options to modify designated uses and water quality criteria within Wyoming's Surface Water Quality Standards. The guidance is provided for informational purposes only and should not be used in lieu of Wyoming's Water Quality Rules and Regulations and implementation materials that can be found on the [Secretary of State's Administrative Rules website](#) and the DEQ's [Surface Water Quality Standards webpage](#), respectively.

Designated uses and water quality criteria are developed using the best available data, information, and resources. However, to ensure surface water quality is sufficiently protected and that water quality standards are as accurate as possible, designated uses and water quality criteria should be reviewed and updated as necessary on an ongoing basis. In such cases, if conditions, data, or information suggest that the designated uses or water quality criteria do not represent existing uses **and** the highest attainable uses<sup>1</sup> and criteria, the designated uses and water quality criteria should be modified. Such instances include, but are not limited to:

1. Natural conditions prevent attainment of the designated use or water quality criteria;
2. Natural, ephemeral, intermittent or low flow conditions prevent attainment of the designated use or water quality criteria;
3. Human caused conditions or sources of pollution that cannot be remedied or that would cause more harm to remove than leave in place prevent attainment of the designated use or water quality criteria;
4. Hydrologic modifications prevent attainment of the designated use or water quality criteria;
5. Physical conditions prevent attainment of an aquatic life designated use or water quality criteria;
6. Meeting controls more stringent than technology-based limits required by Sections 301(b) and 305 of the Clean Water Act, such as a permittee meeting a water quality based effluent limit, would result in substantial and widespread economic and social impacts.

If the designated uses or water quality criteria of a waterbody or waterbody segment do not represent both the existing and highest attainable uses, there are three main options to consider: modifying the designated use; modifying the water quality criteria; or adopting a discharger specific variance in circumstances where a temporary modification to the designated use and water quality criteria is warranted because meeting a water quality based effluent based derived from the standards would result in substantial and widespread economic and social impacts. In circumstances where it may be

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<sup>1</sup> 40 CFR 131.10 40 CFR 131. Per federal Clean Water Act regulations, uses are considered attainable if they can be achieved with cost-effective and reasonable best management practices for nonpoint source control or imposition of effluent limits required under sections 301(b) and 306 of the Clean Water Act.

appropriate to lower a designated use or water quality criteria, a use attainability analysis (UAA), a structured scientific assessment of the factors affecting the attainment of the use, must be completed. UAAs are discussed in 40 Code of Federal Regulations (CFR) 131.10(g) and Wyoming Water Quality Rules, Chapter 1, Section 33.

### Modifying the Designated Use(s) of a Waterbody or Waterbody Segment

- Designated use(s) can be added in circumstances where it can be shown that the current designated use does not represent both the existing and highest attainable use
- Designated use(s) can be modified to the highest attainable use identified through a UAA in circumstances where it can be shown that the current use is not an existing or attainable use due to chemical, physical, biologic, or economic factors (see 40 CFR 131.10(g) or Water Quality Rules, Chapter 1, Section 33)
- Consider this option when the highest attainable use with attainable water quality criteria are currently within Wyoming's Surface Water Quality Standards

### Modifying the Water Quality Criteria for a Waterbody or Waterbody Segment

- Water quality criteria can be made more stringent by adopting site-specific water quality criteria in circumstances where it can be shown that the current water quality criteria are not protective of the existing and highest attainable uses
- Site-specific water quality criteria can be adopted to protect the highest attainable use identified through a UAA in circumstances where it can be shown that the current water quality criteria are not attainable due to chemical, physical, biologic, or economic factors (see 40 CFR 131.10(g) or Water Quality Rules, Chapter 1, Section 33)
- Consider this option when the highest attainable use with attainable water quality criteria are not currently a designated use within the water quality standards
- Site-specific water quality criteria may be derived using the following methods: ambient-based; re-calculation of nationally recommended criteria; derived from toxicological studies; natural concentrations; or other scientifically defensible methods

### Adopting a Discharger-Specific Variance

- A time-limited designated use and water quality criteria can be adopted in circumstances where meeting the water quality based effluent limit in a point source discharge permit issued by the [Wyoming Pollutant Discharge Elimination System \(WYPDES\) Program](#) would result in substantial and widespread economic and social impacts, as shown through an economic hardship demonstration
- Permittee must agree to implement actions necessary to achieve the highest attainable condition of the receiving water, including meeting an interim effluent limit that represents the greatest pollutant reduction achievable and developing and implementing a pollutant minimization program
- The economic hardship demonstration and highest attainable alternative effluent limit must be based on comprehensive alternatives analyses that evaluates options to meet water quality based effluent limits and minimize the discharge of pollutants

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